C-570-011
Administrative Review
POR: 01/01/2017-12/31/2017
Public Document
E&C Office VII: GHC

April 8, 2019

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results in the Countervailing Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; 2017

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China). The period of review (POR) is January 1, 2017, through December 31, 2017. The mandatory respondents are Risen Energy Co., Ltd. (Risen); Shenzhen Sungold Solar Co., Ltd. (Sungold); and Sol-Lite Manufacturing Co., Ltd. (Sol-Lite). We preliminarily find that the three mandatory respondents received countervailable subsidies during the POR. This is the third administrative review of the CVD order.

If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) we will issue the final results by no later than 120 days after the publication of these preliminary results.

II. Background

On February 18, 2015, we published the CVD order on solar products from China.[1] On February 1, 2018, we published in the *Federal Register* a notice of opportunity to request an administrative review of the *CVD Order* for the POR.[2] Pursuant to section 751(a)(1) of the Act and 19 CFR 351.213(b)(1), on February 28, 2018, we received timely requests to conduct an administrative review from the following interested parties: Shenzhen Letsolar Technology Co., Ltd. (Letsolar); SolarWorld Americas, Inc. (the petitioner in the underlying investigation); Sol-Lite; and Suniva Inc. (Suniva), a domestic interested party pursuant to section 771(9)(c) of the Act and 19 CFR 351.102(17).

On April 16, 2018, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published in the *Federal Register* a notice of initiation of an administrative review of the *CVD Order* on 11 Chinese producers/exporters of subject merchandise during the POR.[3] In the *Initiation Notice*, we stated that in the event we limited the number of respondents for individual examination in this administrative review, we intended to select respondents based on CBP entry data for U.S. imports of subject merchandise during the POR.[4] On May 15, 2018, we released the CBP entry data for imports of subject merchandise in the United States during the POR to parties authorized to receive proprietary information under the administrative protective order for this segment of the proceeding, and invited parties to comment on this data and our respondent selection methodology.[5] We received no comments on the CBP data for respondent selection, and no party requested to be examined as a voluntary respondent in this review. On May 16, 2018, Changzhou Trina Solar Energy Co., Ltd., and Trina Solar (Changzhou) Science and Technology Co., Ltd. (collectively, Trina Solar) timely submitted a statement that Trina Solar had no exports, sales or entries during the POR, and requested that we rescind the review with respect to Trina Solar.[6] Also on May 16, 2018, Shanghai JA Solar Technology Co., Ltd. and its affiliates (collectively, JA Solar) submitted a statement that it made no exports or sales of subject merchandise to the United States during the POR.[7] On July 16, 2018, the petitioner and Letsolar each timely withdrew their requests for reviews.[8]

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[1] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 8592 (February 18, 2015) (*CVD Order*).
[2] *See Antidumping and Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 4639 (February 1, 2018) (*Opportunity Notice*).
[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 16298 (April 16, 2018) (*Initiation Notice*).
[4] *See Initiation Notice* at the section, "Respondent Selection."
[5] *See* Memorandum, "Administrative Review of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; Release of Customs and Border Protection Data for Respondent Selection," dated May 15, 2018 (CBP Entry Data).
[6] *See* Letter from Trina Solar, "Certain Crystalline Silicon Photovoltaic Products from China: Notice of No Sales," dated May 16, 2018.
[7] *See* Letter from JA Solar, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: No Shipment Certification of Shanghai JA Solar Technology Co., Ltd. and Hefei JA Solar Technology Co., Ltd.," dated May 16, 2018 (JA Solar Claim of No Shipments).
[8] *See* Letter from the petitioner, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Withdrawal of Request for Administrative Review," dated July 16, 2018 (Petitioner Withdrawal Request), and Letter from Letsolar, "Letsolar Withdrawal of Review Request for Administrative Review of the Countervailing

On August 30, 2018, we selected three mandatory respondents: Risen, Sol-Lite, and Sungold, the three largest Chinese producers/exporters of subject merchandise based on the CBP Entry Data.[9] On September 6, 2018, we sent a questionnaire to the Government of China (GOC), seeking information regarding alleged subsidies, and requested the GOC to forward the questionnaire to the mandatory respondents.[10]

On September 12, 2018, Sol-Lite notified us that it would not be participating in this review, stating that the "very low amount of totals sales" during the POR does not justify the expense for Sol-Lite to continue as a mandatory respondent.[11] On September 17, 2018, Risen contended that it was not properly served with Suniva's request for review and, thus, requested that we rescind the review of Risen, or suspend the deadline Risen's response to the CVD Questionnaire.[12] On September 18, 2018, Risen requested an extension from September 20, 2018, to October 11, 2018, to respond to the affiliates section of the CVD Questionnaire.[13] Also on September 18, 2018, Sungold requested an extension from September 20, 2018, to October 4, 2018, to respond to the affiliates section of the CVD Questionnaire.[14] On September 19, 2018, we granted Risen and Sungold extensions until September 27, 2018, to respond to the affiliates section of the CVD Questionnaire.[15]

On September 26, 2018, we informed Risen that we were not rescinding the review with respect to it, and that the company's response to the affiliates section of the CVD Questionnaire would be due by October 11, 2018, while the remainder of the CVD Questionnaire would be due by October 29, 2018.[16] Risen did not subsequently respond to any section of our CVD Questionnaire. On October 3, 2018, Sungold responded to the affiliates section of our CVD questionnaire by stating it had no sales of subject merchandise to the United States and questioned whether Commerce has jurisdiction to include Sungold as a mandatory respondent in

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Duty Order on Crystalline Silicon Photovoltaic Products from the People's Republic of China," dated July 16, 2018 (Letsolar Withdrawal Request).

[9] *See* Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; Respondent Selection," dated August 30, 2018 (Respondent Selection Memorandum).

[10] *See* Letter to the GOC, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Countervailing Duty Questionnaire," dated September 6, 2018 (CVD Questionnaire).

[11] *See* Letter from Sol-Lite, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Sol-Lite's Decision Not to Participate as a Mandatory Respondent," dated September 12, 2018 (Sol-Lite Notification of Non-Participation).

[12] *See* Letter from Risen, "Crystalline Silicon Photovoltaic Products from the People's Republic of China – Request for Recession and/or Suspension of Questionnaire," dated September 17, 2017 (Risen Request for Rescission).

[13] *See* Letter from Risen, "Crystalline Silicon Photovoltaic Products from the People's Republic of China – Request for Extension of Time for Section III Identifying Affiliates Questionnaire Response," dated September 18, 2018.

[14] *See* Letter from Sungold, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Section III Affiliated Companies Extension Request," dated September 18, 2018.

[15] *See* Memorandum, "Extension of Deadline to Submit Responses to Section III Regarding Company Affiliates in the Countervailing Duty Administrative Review of Crystalline Silicon Photovoltaic Products from the People's Republic of China," dated 19, 2018.

[16] *See* Memorandum, "Administrative Review of the Countervailing Duty (CVD) Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; 2017: Telephone Call with Counsel to Risen Energy Co., Ltd.," dated September 26, 2018.

this review.[17] Sungold provided no further response to our CVD Questionnaire. The GOC timely responded to our CVD Questionnaire on October 15, 2018, by informing Commerce "that neither of the three mandatory company respondents has indicated a willingness to participate in these proceeding to the GOC."[18] However, it provided no responses to our CVD Questionnaire with respect to the three mandatory respondents. The GOC stated that it was willing to fully cooperate in this review should we select a new respondent.

On October 24, 2018, we extended the deadline for these preliminary results by 90 days to January 29, 2019.[19] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[20] As a result, the revised deadline for these preliminary results was extended to March 10, 2019.[21] Finally, on March 8, 2019, we extended the deadline for these preliminary results by 30 days to April 9, 2019.[22]

III. Rescission of Administrative Review, In Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review.

Letsolar:
On July 16, 2018, Letsolar timely withdrew its request for a review of its own entries.[23] As no other party requested an administrative review of Letsolar, we are rescinding this review with respect to Letsolar, in accordance with 19 CFR 351.213(d)(1).

JA Solar:
Further, we received timely filed certifications of no shipments from Shanghai JA Solar Technology Co., Ltd. and Hefei JA Solar Technology Co., Ltd. (collectively, JA Solar).[24] To

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[17] *See* Letter from Sungold, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Response to Customs Information," dated October 3, 2018 (Sungold October 3, 2018 QR) at 2.
[18] *See* Letter from the GOC, "Government of China's Initial Questionnaire Response; Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China," dated October 15, 2018.
[19] *See* Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Extension of Deadline for Preliminary Results," dated October 24, 2018.
[20] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected Partial Shutdown of the Federal Government," dated January 28, 2019. As a result, all deadlines in this segment of the proceeding have been extended by 40 days.
[21] The March 10, 2019 deadline was a Sunday. As a result, this deadline fell to the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).
[22] *See* Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China, Second Extension of Deadline for Preliminary Results," dated March 8, 2019. We note that this 30-day extension is from the March 10, 2019 deadline, which was a non-business day. Accordingly, the revised deadline for these preliminary results is April 9, 2019.
[23] *See* Letsolar Withdrawal Request.
[24] *See* JA Solar Claim of No Shipments.

confirm JA Solar's statement, we issued a no-shipment inquiry to CBP with respect to imports of subject merchandise from JA Solar during the POR.[25] On April 4, 2019, CBP responded to our no-shipment inquiry regarding JA Solar stating that it found no shipments of solar products from China that were produced and/or exported by JA Solar during the POR.[26] As there is no evidence on the record that JA Solar made entries of subject merchandise into the United States during the POR, we are rescinding this review with respect to JA Solar, in accordance with 19 CFR 351.213(d)(3).

Risen:
Risen requests that Commerce rescind its administrative review of the company because Risen was not properly served with Suniva's request for review of the company. Commerce's regulations at 19 CFR 351.303(f)(3)(ii) require that an interested party serve a copy of the request for administrative review on each exporter or producer and on the petitioner by personal service or first-class mail. Risen contends that it was not properly served with Suniva's request for review pursuant to that regulation, and Suniva's failure to comply with that regulation invalidates Suniva's review request.[27] Risen argues that Suniva's review request was the last surviving request for review that had not been withdrawn with respect to Risen (*i.e.*, the only other request for review on Risen was submitted by the petitioner, which timely withdrew its request). Therefore, Risen concludes, Commerce should rescind the review regarding Risen.[28] According to Risen, if Risen had reasonable notice of Suniva's request for review, Risen could have discussed with Suniva as to whether Risen's "tiny inconsequential amount of POR sales" merited a review of Risen's POR entries.[29]

As stated above, Commerce's regulations at 19 CFR 351.303(f)(3)(ii) require that interested parties serve copies of requests for reviews on each exporter, producer, and on the petitioner by personal service or by first-class mail. Suniva's request for review was submitted on February 28, 2018, and includes a request for review of Risen.[30] Our examination of Suniva's request leads us to conclude that neither Risen, nor its counsel, was served with this document *via* first class or electronic mail by Suniva.

Nonetheless, we do not find Suniva's failure to properly serve Risen to necessitate rescinding our review of Risen. As detailed above in the "Background" section, we initiated this review on April 16, 2018.[31] Regardless of whether Suniva properly served Risen with its request for review on Risen, the United States Court of Appeals for the Federal Circuit (CAFC) has held that the *Federal Register* notice of initiation "is sufficient as a matter of law to give notice to the named foreign exporters and producers" that they are under review.[32] Moreover, several days

[25] *See* CBP Message no. 9093304, dated April 3, 2019.
[26] *See* Memorandum, "No shipment inquiry with respect to the companies below during the period 01/01/2017 through 12/31/2017," dated April 4, 2019.
[27] *See* Risen Request for Rescission.
[28] *Id*. at 3.
[29] *Id*. at 3-4.
[30] *See* Letter from Suniva, "Crystalline Silicon Photovoltaic Products from the People's Republic of China: Request for Administrative Review," dated February 28, 2018 (Suniva Request for Review).
[31] *See Initiation Notice*.
[32] *See Suntec Industries Co., Ltd. v United States*, 857 F.3d 1363, 1371 (CAFC 2017).

later, on April 25, 2018, DeKieffer & Horgan, PLLC filed a letter on behalf of Risen stating that it is representing Risen in this administrative review.[33] Thus, we conclude that on or before April 25, 2018, counsel for Risen had actual knowledge that Risen was under review and had access to the public documents (or a listing thereof), including Suniva's request for review, that were filed on the record of this review.

Finally, our review of Risen's request to rescind the administrative review on Risen does not demonstrate how Risen was prejudiced by not being served with Suniva's request for review. Commerce's regulations provide that a party that has requested a review may withdraw that request within 90 days of the publication date of the notice of initiation of the requested review.[34] Our *Initiation Notice* published on April 16, 2018, and interested parties that requested this review (*e.g.*, Suniva) had until July 15, 2018, to withdraw their requests for this review.[35] As such, Risen and its counsel had a minimum of approximately 80 days to contact Suniva and to discuss whether Suniva was interested in withdrawing its request for review on Risen before the 90-day request for withdrawal period expired. Risen's request for rescission made no mention of whether it used any of the time between the date its counsel made its entry of appearance (*i.e.*, April 25, 2018) and the end of the 90-day request for withdrawal period (*i.e.,* July 15, 2018) to contact Suniva and discuss whether Suniva was interested in withdrawing its request on Risen.

Neither do we find that other circumstances demonstrate substantial prejudice to Risen as a result of Suniva's failure to serve Risen. Although Suniva's failure to properly serve Risen with its request for administrative review may have delayed Risen's awareness of the review by several weeks,[36] as discussed above, Commerce extended the deadline for Risen's responses to the original questionnaire by up to three weeks.[37] At no point did Risen seek additional time, beyond the granted extension, within which to respond to Commerce's questionnaire.

Because the record shows that Risen had a minimum of approximately 80 days to contact Suniva to discuss whether Suniva was interested in withdrawing its review on Risen, which Risen did not address in submission to Commerce, and no other evidence demonstrates substantial prejudice to Risen as a result of the deficient service of the administrative review request, we are continuing this review with respect to Risen. We discuss the rate applied to Risen in this administrative review in section VI, "Use of Facts Otherwise Available and Application of Adverse Inferences,**"** below.

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[33] *See* Letter submitted on behalf of Risen, "Crystalline Silicon Photovoltaic Products from the People's Republic of China – Entry of Appearance," dated April 25, 2018.
[34] *See* 19 CFR 351.213(d)(1).
[35] July 15, 2018, was a Sunday. As a result, the deadline fell to the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).
[36] *See* Suniva Request for Review. Had this request for review been properly served on or after its filing date of February 28, 2018, Risen would have had notice of the review request at most 47 days prior to the publication of the *Initiation Notice*.
[37] *See* CVD Questionnaire (setting deadlines of September 20 and October 15, 2018, for various sections of the questionnaire); *see also* Memorandum, "Administrative Review of the Countervailing Duty (CVD) Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; 2017: Telephone Call with Counsel to Risen Energy Co., Ltd.," dated September 26, 2018 (extending deadlines to October 11 and 29, respectively).

Trina Solar:
We also received a timely certification of no shipments from Trina Solar.[38] However, the CBP Entry Data that we relied on for respondent selection indicates that Trina Solar made entries of subject merchandise during the POR.[39] Because record evidence contradicts Trina Solar's statement, we are not intending to rescind this review with respect to Trina Solar.

Sungold:
Finally, we are not intending to rescind the review with regard to Sungold. In the *Initiation Notice*, Commerce stated that, "{i}f a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review ('POR'), it must notify the Department within 30 days of publication of this notice in the Federal Register" (*i.e.*, before May 16, 2018), and noted its intent to select respondents based on CBP data.[40] On May 15, 2018, we released the CBP Entry Data for imports of subject merchandise in the United States during the POR to parties authorized to receive proprietary information under the administrative protective order for this segment of the proceeding, and invited parties to comment on this data and our respondent selection methodology.[41] We received no comments on the CBP Entry Data or on our respondent selection methodology. We selected Sungold as a mandatory respondent because it was one of the three largest exporters or producers of subject merchandise by volume (*i.e.*, import value) during the POR based on the CBP Entry Data.[42]

On August 31, 2018, Harris Bricken McVay, LLP filed a letter on behalf of Sungold stating that it is representing Sungold in this administrative review.[43] On September 6, 2018, we released our CVD Questionnaire to the GOC, requesting that it forward it to the mandatory respondents, including Sungold. On September 7, 2018, based on a request from counsel for Sungold, we issued business proprietary versions of the CBP Entry Data and our Respondent Selection Memorandum to counsel for Sungold through our APO/Dockets Office.

When responding to our CVD Questionnaire on October 3, 2018, Sungold stated that it had no record of sales or shipments to the United States during the 2017 POR and thus, had nothing to report.[44] Sungold reported while it made sales of subject merchandise to other countries, it has no knowledge and no reason to know whether those sales to third countries were exported to the United States, and questioned whether Commerce has jurisdiction to include Sungold as a mandatory respondent in this review when, according to Sungold, there are no sales or shipments to review with respect to Sungold.[45]

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[38] *See* Letter from Trina Solar, "Certain Crystalline Silicon Photovoltaic Products from China: Notice of No Sales," dated May 16, 2018.
[39] *See* CBP Entry Data.
[40] *See Initiation Notice* at the section, "Notice of No Sales."
[41] *See* CBP Entry Data.
[42] *See Initiation Notice* at the section, "Respondent Selection;" *see also* Respondent Selection Memorandum.
[43] *See* Letter filed on behalf of Sungold, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Notice of Appearance and Application for Administrative Order," dated August 31, 2018.
[44] *See* Sungold October 3, 2018 QR at 1.
[45] *Id*. at 2.

The *Initiation Notice* provided 30 days from the date of publication for parties to notify Commerce that they had no exports, sales, or entries during the POR.[46] As the *Initiation Notice* published on April 16, 2018, interested parties had until May 16, 2018, to provide Commerce with a statement that they made no entries of subject merchandise during the POR. Our review of the record leads us to conclude that Sungold submitted no such statement within the time provided. We also note that Sungold was silent when we provided interested parties with an opportunity to comment on the CBP Entry Data and our respondent selection methodology. Sungold had opportunities to claim that it had no POR entries and to raise issues with the CBP Entry Data prior to the deadline for responding to our CVD Questionnaire but failed to do so.

The CBP Entry Data we relied on for respondent selection shows that Sungold made entries of subject merchandise into the United States during the POR. And while Sungold contends that it had no knowledge of these entries, it provided no evidence to demonstrate that the CBP Entry Data is "inaccurate or distortive."[47] Because record evidence indicates that Sungold had entries of subject merchandise during the POR, we are not intending to rescind the review of Sungold. We discuss the rate applied to Sungold in this administrative review in section VI, "Use of Facts Otherwise Available and Application of Adverse Inferences," below.

IV. Scope of the Order

The merchandise covered by this order are modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of this order, subject merchandise includes modules, laminates and/or panels assembled in the China consisting of crystalline silicon photovoltaic cells produced in a customs territory other than China.

Subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this order are modules, laminates and/or panels assembled in the PRC, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total

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[46] *See Initiation Notice* at the section, "Notice of No Sales."

[47] The CIT has held that it is reasonable for the Department to rely upon CBP data "{i}n the absence of evidence in the record that the CBP data – for merchandise entered during the relevant POR and subject to the AD order at issue – are in some way inaccurate or distortive." *See Pakfood Pub. Co. Ltd. v. United States*, 753 F. Supp. 2d 1334, 1345 (CIT 2011); *see also Ad Hoc Shrimp Trade Action Comm. v. United States*, 992 F. Supp. 2d 1302, 1311 (CIT 2014).

combined surface area of all modules, laminates and/or panels that are integrated into the consumer good. Further, also excluded from the scope of this order are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from China.

Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030, 8501.31.8000, 8501.31.8010, 8501.32.6010, 8501.61.0010, 8541.40.6015, and 8541.40.6035. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

V. Application of the Countervailing Duty Law to Imports from China

On October 25, 2007, Commerce published its final determination on coated free sheet paper from China, finding that:

> . . . given the substantial difference between the Soviet-style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to the Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.[48]

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[49] Furthermore, on March 13, 2012, Public Law 112-99 was enacted which confirms that Commerce has the authority to apply the CVD law to countries designated as non-market economies under section 771(18) of the Act, such as China.[50] The effective date of the enacted legislation makes clear that this provision applies to this proceeding.[51]

VI. Use of Facts Otherwise Available and Application of Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

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[48] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*) and accompanying Issues and Decision Memorandum (IDM) at Comment 6.

[49] *See*, *e.g.*, *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) and accompanying IDM at Comment 1.

[50] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

[51] *See* Public Law 112-99, 126 Stat. 265 §1(b).

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. If that party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Under the Trade Preferences Extension Act of 2015 (TPEA), numerous amendments to the antidumping duty and CVD laws were made. Amendments to sections 776(b) and 776(c) of the Act and the addition of section of section 776(d) of the Act were included.[52] The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this administrative review.[53]

Section 776(b) of the Act provides that Commerce may use adverse facts available (AFA) when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumption about information an interested party would have provided if the interested party had complied with the request for information.[54]

Furthermore, section 776(b)(2) of the Act states that AFA may include reliance on information derived from the petition, the final determination from the countervailing duty investigation, a previous administrative review, or other information placed on the record.[55]

Section 776(c) of the Act provides that, in general, when Commerce relies on secondary information rather than on information contained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.[56] Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[57] Furthermore, Commerce is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.[58]

Finally, under section 776(d) of the Act, when applying AFA, Commerce may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country or, if there is no same or similar program, use a countervailable subsidy rate for the subsidy program from a proceeding that Commerce considers reasonable to

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[52] *See* TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015); *see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).
[53] *See Applicability Notice*, 80 FR at 46794-46795.
[54] *See* section 776(b)(1)(B) of the Act.
[55] *See also* 19 CFR 351.308(c).
[56] *See also* 19 CFR 351.308(d).
[57] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, Vol. 1 at 870, reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (1994) (SAA).
[58] *See* section 776(c)(2) of the Act.

use.[59] When selecting facts available with an adverse inference, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[60]

For purposes of these preliminary results, we are applying AFA for the circumstances outlined below.

Application of Total Adverse Facts Available

As explained in the "Background" section above, Risen, Sol-Lite, and Sungold were selected as mandatory respondents but have failed to participate in in this review. Therefore, under section 776(a) of the Act, we preliminarily find that by not responding to our CVD Questionnaire, all three companies withheld information that had been requested, failed to provide information within the deadlines established, and in doing so, significantly impeded this proceeding. Sol-Lite specifically informed us that it was not participating in this review, stating that its "sales are so low during the period, it simply does not make financial sense for Sol-Lite to continue as a mandatory respondent in the case."[61] As discussed above, Risen did not provide a substantive response to Commerce's questions; rather, it contended that it was not properly subject to the review.[62] Sungold responded to our CVD Questionnaire by stating it made no sales or shipments of subject merchandise during the 2017 POR and questioned whether Commerce has jurisdiction to include Sungold as a mandatory respondent in this review when, according to Sungold, there are no sales or shipments to review with respect to Sungold.[63] This is the extent of Sungold's response to our CVD Questionnaire. As discussed above, this response, submitted to Commerce on October 3, 2018, was well past the deadlines for submitting a statement of no shipments and for commenting on the CBP Entry Data—which, as discussed above, contradict Sungold's statement that it had no entries during the POR. Thus, Sungold's questionnaire response withheld information requested by Commerce regarding its use of subsidy programs during the POR, and Sungold failed to provide such information before the established deadline.

Therefore, and based on the details provided above, under section 776(a) of the Act, we preliminarily find that by not responding to our CVD Questionnaire with substantive responses regarding their POR entries, Risen, Sol-Lite, and Sungold each withheld information that was requested and failed to provide information within the deadlines established. Further, because these companies did not respond to our CVD Questionnaire, these companies significantly impeded this proceeding. Thus, in reaching our preliminary results, pursuant to section 776(a)(2)(A)-(C) of the Act, we based the CVD rates for these companies on facts otherwise available.

Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By not responding to our CVD Questionnaire with substantive responses

[59] *See* section 776(d)(1) of the Act.
[60] *See* section 776(d)(3) of the Act.
[61] *See* Sol-Lite Notification of Non-Participation.
[62] *See* Risen Request for Rescission.
[63] *Id*. at 2.

regarding programs used during the POR, the three mandatory respondents did not cooperate to the best of their abilities to comply with our request for information in this administrative review. Accordingly, we preliminarily find that the use of AFA is warranted for Risen, Sol-Lite, and Sungold.

Accordingly, as AFA, we preliminarily find that Risen, Sol-Lite, and Sungold used all of the programs that are subject to this administrative review based on our review of the *Initiation Checklist* and the questionnaire responses provided by the Chinese producer/exporter of solar products, Trina Solar, in a prior segment of this proceeding.[64] Our examination of this information leads us to conclude, as AFA, the mandatory respondents benefitted from all of the programs subject to this administrative review. Accordingly, we selected an AFA rate for each of these programs, pursuant to the hierarchy set out below, and included these rates in the determination of the of the AFA rate applied to each of these companies.[65] We note that Commerce has previously countervailed identical or similar programs.[66]

For the programs that Commerce has previously found to be countervailable, in part because these programs constituted a financial contribution by an authority and were specific,[67] we are continuing to find these programs to constitute a financial contribution by an authority and to be specific. It is Commerce's practice not to revisit financial contribution and specificity determinations made in a prior segment of the same proceeding, absent the presentation of new facts or evidence.[68] The CAFC has affirmed this practice, under section 751(a)(1)(A) of the Act.[69] In this administrative review, the GOC withheld information requested of it, including new information regarding the financial contribution and specificity of these programs.[70] In light of the lack of new information on the record, and consistent with our practice and *Magnola*, we are continuing to find these programs to be countervailable.

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[64] *See* "Enforcement and Compliance Office of AD/CVD Enforcement CVD Investigation Initiation Checklist," dated January 22, 2014 (*Initiation Checklist*), which provides the descriptions of the subsidy programs that were initiated in the underlying CVD investigation; *see also* Letter from Trina Solar, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Section III (Affiliated Companies) Response," dated October 11, 2016 (Public Version) at Exhibits 13 and 15, which lists "other" subsidy programs reported used by Trina Solar.

[65] *See* Appendix I.

[66] *Id*.

[67] *See Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014) (*Solar Products Inv. Final*) and accompanying IDM at sections VIII.A and B.1.a; *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014-2015*, 82 FR 42792 (September 12, 2017) (*Solar Products 2014 AR*) and accompanying IDM section X.A. We are now clarifying that the program, Export Buyer's Credits from the China Export-Import Bank, is export-contingent, pursuant to section 771(5A)(B) of the Act.

[68] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015) and accompanying IDM at 27 n.130 ("In a CVD administrative review, we do not revisit past determinations of countervailability made in the proceeding, absent new information.").

[69] *See Magnola Metallurgy, Inc. v United States*, 508 F.3d 1349, 1353-56 (CAFC 2007) (*Magnola*).

[70] *See* Letter from the GOC, "Government of China's Initial Questionnaire Response; Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China," dated October 15, 2018.

For the programs discussed in the *Initiation Checklist* but which Commerce found not to have been used during the investigation, and thus did not make findings as to whether those programs constituted a financial contribution or were specific,[71] we preliminarily find those programs to constitute a financial contribution and to be specific on the basis of AFA. By not responding to our CVD Questionnaire, which included questions regarding those programs, the GOC withheld information that was requested of it, thereby significantly impeding the conduct of this review. Thus, we must rely on "facts available" in making our preliminary determination in accordance with sections 776(a)(2)(A)-(C) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability by failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In applying AFA, we look to the *Initiation Checklist*, which provides descriptions of these subsidy programs, including the basis on which we found that reasonably available information indicated that these programs constituted a financial contribution and were specific. Applying an adverse inference to these descriptions, we preliminarily find that all of these programs constitute a financial contribution within the meaning of section 771(5)(D) of the Act and are specific within the meaning of sections 771(5A)(B) and (D) of the Act.[72]

Calculation of the AFA Rates for the Mandatory Respondents

We are determining the subsidy rates for Risen, Sol-Lite, and Sungold in accordance with our CVD AFA hierarchy under section 776(d) of the Act. Under the new section 776(d) of the Act, Commerce may use as adverse facts available a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an adverse facts available rate, Commerce is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[73]

Consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as adverse facts available.[74] When selecting rates in an administrative review, we first determine if there is an identical program from any segment of the proceeding and use the highest calculated rate for the identical program (excluding *de minimis* rates). If no such identical program exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) within the same proceeding

[71] *See Solar Products Inv. Final* and accompanying IDM at section VIII.B.
[72] *Id*.
[73] *See* section 776(d)(3) of the Act.
[74] *See*, *e.g.*, *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China*) and accompanying IDM at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

and apply the highest calculated rate for the similar/comparable program, excluding *de minimis* rates.[75] In the absence of such a rate, we then determine the highest non-*de minimis* rate calculated for a cooperating company for an identical program in a different CVD proceeding (*i.e.*, involving a different industry) for the same country. In the absence of such a rate, we then determine the highest non-*de minimis* rate calculated for a cooperating company for a similar program in a different proceeding for the same country. Finally, in the absence of such a rate, we apply the highest calculated rate from any non-company specific program in any CVD case involving the same country, but we do not use a rate from a program if the industry in the proceeding cannot use that program.[76]

In applying AFA to Risen, Sol-Lite, and Sungold, we are guided by Commerce's methodology detailed above.[77] For these preliminary results, we are able to match, based on program name, description, and treatment of the benefit, the programs listed in the attached appendix to identical or similar programs from other Chinese CVD proceedings.[78] Accordingly, we preliminarily determine the AFA countervailable subsidy rate for Risen, Sol-Lite, and Sungold to be 94.83 percent *ad valorem*.[79]

Corroboration of AFA Rates

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.[80] The SAA provides that to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.[81]

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not establish that the selected facts available are the best alternative information.[82] Further, Commerce is not

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[75] For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. *See*, *e.g.*, *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at "Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "Grant Under the Elimination of Backward Production Capacity Award Fund."
[76] *See*, *e.g.*, *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China*) and accompanying IDM at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").
[77] *See* section 776(d) of the Act; *see also SolarWorld Americas, Inc. v. United States*, CIT No. 15-00232 (CIT 2017), sustaining Commerce's CVD AFA hierarchy and selection of AFA rates for CVD reviews.
[78] *See* Appendix I; *see also* CVD Questionnaire at II-2 – II-19.
[79] *See* Appendix I.
[80] *See* SAA at 870.
[81] *Id*.
[82] *Id*. at 869-870.

required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[83]

With regard to the reliability of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.[84]

In the absence of responses from Risen, Sol-Lite, and Sungold concerning their use of the alleged programs during this POR, we examined information concerning Chinese subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this review. Additionally, the relevance of the rates applied is that they are actual calculated CVD rates for the GOC programs, from which Risen, Sol-Lite, and Sungold could actually receive a benefit. Due to Risen, Sol-Lite, and Sungold's failure to provide a response concerning each of these programs, we have corroborated the rates we selected to use as AFA to the extent practicable for these preliminary results.

VII. Subsidy Rate for Non-Selected Companies Under Review

The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 705(c)(5)(A)(ii) of the Act, provides that, if the countervailable subsidy rates established for all individually-examined exporters/producers are *de minimis* or based entirely on adverse facts available under section 776 of the Act, Commerce may use any reasonable method to establish a subsidy rate for exporters/producers that were not individually-examined, including averaging the weighted-average countervailable subsidy rates determined for the individually-examined exporters and producers.

In this review, the countervailable subsidy rates calculated for the three mandatory respondents are based entirely on facts available pursuant to section 776 of the Act. Accordingly, we are using "any reasonable method" to establish the subsidy rate for the non-selected companies under review. We find that it is reasonable to rely on the rates established for the mandatory

[83] *See* section 776(d) of the Act.
[84] *See*, *e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

respondents as the rate for the non-selected companies under review,[85] particularly because there is no other information on the record that can be used to determine the rate for the non-selected companies. This method is consistent with our past practice.[86]

VIII. Disclosure and Public Comment

All calculations in these preliminary results are based on public information and described in their entirety in this preliminary decision memorandum. As such, this preliminary decision memorandum constitutes disclosure of the calculations performed in connection with these preliminary results to interested parties.[87]

Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than 30 days after the publication of these preliminary results in the *Federal Register*. Rebuttal briefs, limited to issues raised on the case briefs, may be submitted no later than five days after the deadline for the submission for case briefs.[88] Parties who submit case or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[89]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[90] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time to be determined. Prior to the hearing, Commerce will contact all parties who submitted case or rebuttal briefs to determine if they wish to participate in the hearing.

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[85] *See* Appendix II to this preliminary decision memorandum for a list of the non-selected companies subject to the instant administrative review.

[86] *See, e.g.*, *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 81 FR 20619 (April 8, 2016), unchanged in *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Final Affirmative Countervailing Duty Determination*, 81 FR 75045 (October 28, 2016) (assigning the sole mandatory respondent's rate, which was based on adverse facts available, as the all-others rate), and *Circular Welded Carbon-Quality Steel Pipe from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 77 FR 19192 (March 30, 2012), unchanged in *Circular Welded Carbon-Quality Steel Pipe from India: Final Affirmative Countervailing Duty Determination*, 77 FR 64468 (October 22, 2012) (assigning the average of the mandatory respondents' rates, which were based solely on adverse facts available, as the all-others rate).

[87] In accordance with 19 CFR 351.224(b), Commerce is normally required to disclose calculations performed in connection with a preliminary results of review within five days of its public announcement.

[88] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

[89] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[90] *See* 19 CFR 351.310(c).

Commerce will then distribute a hearing schedule to these parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[91] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,[92] on the due dates established above.

IX. Conclusion

We recommend that you approve the preliminary findings described above.

☒ Agree

☐ Disagree

4/8/2019

X

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

[91] *See* 19 CFR 351.303(b)(2)(i).
[92] *See* 19 CFR 351.303(b)(1).

Appendix I

AFA Rate Calculation

Programs	AFA Rate (%)
A. Preferential Lending	
1. Preferential Loans and Directed Credit	0.58[93]
B. Indirect Tax Programs	
1. VAT Rebates on FIE Purchases of Chinese-Made Equipment	0.53[94]
2. VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund Program	0.53[95]
C. Income Tax Programs	25.00[96]
1. The Two Free/Three Half Program for Foreign-Invested Enterprises (FIEs)	
2. Income Tax Reductions for Export-Oriented Enterprises	
3. Income Tax Benefits for FIEs Based on Geographic Locations	
4. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs	
5. Tax Reduction for FIEs Purchasing Chinese-Made Equipment	
6. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises	
7. Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects	
8. Preferential Income Tax Policy for Enterprises in the Northeast Region	
9. Guangdong Province Tax Programs	
10. Preferential Tax Programs for High or New Technology Enterprises	
11. Enterprise Income Tax Law, Research and Development Program	
D. Grant Programs[97]	
1. Golden Sun Demonstration Program	0.62
2. Reward for Recognition as Provincial Technology Center	0.62
3. 2013 Enterprise Commencement or Project Completion Reward	0.62
4. Award for Sales Revenue Exceeds 1 Billion	0.62

[93] Applying the highest non-*de-minimis* calculated rate for identical program in this proceeding. *See Solar Products Inv. Final* and accompanying IDM at 24-25.
[94] *Id*. at 26-27 for highest rate for a similar type program in this proceeding, Preferential Tax Programs for HNTEs.
[95] *Id*.
[96] The standard income tax rate for corporations in China during the period of review was 25 percent. Therefore, the highest possible benefit for all income tax reduction or exemption programs combined is 25 percent. As a result, we are applying a CVD rate of 25 percent on an overall basis for the following income tax programs. *See* Memorandum, “Additional Information Placed on the Record,” dated concurrently with this Preliminary Decision Memorandum (information showing the corporate tax rate in China was 25 percent in 2017).
[97] As we could not locate a non-*de-minimis* rate that was calculated for the Golden Sun Demonstration Program, we are applying the highest non-*de minimis* rate for the identical program from another China CVD proceeding. *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 34823 (July 23, 2018) and accompanying IDM at 9 for Golden Sun Demonstration Program. Because we could not locate a non-*de-minimis* rate that was calculated for the remaining grant programs in this proceeding, we are applying the rate of 0.62 percent, calculated for the program, “Special Fund for Energy Saving Technology” to the remaining grant programs. *See Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 82 FR 27466 (June 15, 2017) (*Chlorinated Isos 2014*) and accompanying IDM at 6-7.

5. Award for Science and Technology Progress by Changzhou Municipal Government	0.62
6. Awards for Jiangsu Famous Brand Products	0.62
7. Changzhou Mayor Quality Prize	0.62
8. Changzhou Special Science Museum Award	0.62
9. Changzhou Treasury Bureau Grant – Five Big Industrial Special Fund for Capital	0.62
10. Changzhou Treasury Bureau Support Fund for Exportation and International Market	0.62
11. Development or Equivalent City/Regional Subsidy	0.62
12. Electronic Information Industry Development Fund	0.62
13. Enterprises-Universities-Researchers Cooperation Subsidy	0.62
14. Exportation Credit Insurance Support Grant	0.62
15. Fund for Foreign Trade Development	0.62
16. Funding on Infrastructure	0.62
17. High and New Technology Enterprise Award	0.62
18. Income Tax Refund for 1000MW Cells & Modules Project	0.62
19. Innovation Award Grant	0.62
20. International Cooperation Project Study Special Fund by Jiangsu Province	0.62
21. Jiangsu Provincial Natural Science Fund	0.62
22. Jiangsu Provincial Natural Science Fund (Young Scientific Talent Special Fund)	0.62
23. Key Foreign Investment Project Reward	0.62
24. Land Occupation Tax Refund	0.62
25. Large & Medium-Sized Enterprise Research and Development Institutions Construction Reward	0.62
26. National “863” Program (2011AA050501)	0.62
27. National “863” Program (2011AA050511)	0.62
28. National “863” Program (2012AA050303)	0.62
29. National “973” Program (2010CB736205)	0.62
30. National “973” Program (2012CB724407)	0.62
31. National Standard Development Fund	0.62
32. Patent Grants	0.62
33. Post-Doctoral Fund	0.62
34. Product Quality Award and Subsidy for Promotion of Transformation and Upgrading of Standardization by Jiangsu Province	0.62
35. Retained Talented People Income Tax Refund	0.62
36. Safe & Environment-Friendly Engineering Award	0.62
37. Science & Technology Plan (Applying Basic Research Project Fund) by Changzhou Municipal Government	0.62
38. Science & Technology Plan (S&T Supporting Fund - Industry) by Changzhou Municipal Government	0.62
39. Science & Technology Plan (S&T Supporting Fund - Industry) by Jiangsu Province / Key Technical Standard Project	0.62
40. Science Technical Awards	0.62

41. Scientific and Technical Innovation Special Fund	0.62
42. Scientists Exchange and Cooperation Plan Support Fund	0.62
43. Service Charge for Tax Collection	0.62
44. Social Insurance Subsidy for Xinjiang Employees	0.62
45. Special Fund for Transformation and Upgrading of Industry and Information Industry	0.62
46. Strategic Emerging Industries Development Special Fund	0.62
47. Technical Innovation and Achievement Transformation Fund by Jiangsu Province	0.62
48. Technical Standard Award	0.62
49. Technical Standard Award by Changzhou	0.62
50. Technical Standard Award by Changzhou City	0.62
51. Technical Standard Award by Changzhou Xinbei District	0.62
52. Water-saving Technology Award	0.62
53. Sub-Central Government Subsidies for Development of "Famous Brands" and China World Top Brands	0.62
54. Export Product Research and Development Fund	0.62
55. Subsidies for Development of "Famous Brands" and China World Top Brands	0.62
56. Special Energy Fund (Established by Shandong Province)	0.62
57. Funds for Outward Expansion of Industries in Guangdong Province	0.62
58. Debt Forgiveness	0.62
E. Provision of Goods and/or Services for Less Than Adequate Remuneration (LTAR)	
1. Provision of Solar Grade Polysilicon for LTAR	5.36[98]
2. Provision of Aluminum Extrusions for LTAR	0.86[99]
3. Provision of Solar Glass for LTAR	10.17[100]
4. Provision of Land-Use Rights for LTAR in the Solar Products Industry	13.36[101]
5. Provision of Electricity for LTAR	1.28[102]

[98] Applying the highest non-*de minimis* calculated rate for identical program in this proceeding. *See Solar Products Inv. Final* and accompanying IDM at 19-20.
[99] Applying the highest non-*de minimis* calculated rate for identical program in this proceeding. *See Solar Products Inv. Final* and accompanying IDM at 20-21.
[100] Applying the highest non-*de minimis* calculated rate for identical program in this proceeding. *See Solar Products 2014 AR* and accompanying IDM at 6-7.
[101] Applying the highest non-*de minimis* calculated rate for a similar program in another Chinese CVD proceeding. *See Laminated Woven Sacks from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008) and accompanying IDM at 14-17.
[102] Applying the highest calculated rate for calculated for the identical program in this proceeding. *See Solar Products Inv. Final* and accompanying IDM at 21-22.

F. Export Credits and Insurance	
1. Export Buyer's Credits from the China Export-Import Bank	0.58[103]
2. Export Credit Insurance from SINOSURE	0.62[104]
Total	**94.83**

[103] Applying the highest non-*de minimis* calculated rate for a similar program (based on the treatment of the benefit) in this proceeding, Preferential Loans and Directed Credit. *See Solar Products Inv. Final* and accompanying IDM at 24-25.

[104] Because we could not locate a non-*de-minimis* rate that was calculated for this program in this proceeding, we are applying the rate of 0.62 percent, calculated for a similar program (based on the treatment of the benefit), "Special Fund for Energy Saving Technology." *See Chlorinated Isos 2014* and accompanying IDM at 6-7.

Appendix II

Non-Selected Companies Under Review

1. Changzhou Trina Solar Energy Co., Ltd.
2. Chint Solar (Zhejiang) Co., Ltd.
3. Hefei JA Solar Technology Co., Ltd.
4. Ri Shen Products (SZ) Ltd.
5. Shanghai JA Solar Technology Co., Ltd.
6. Sunny Apex Development Limited
7. Trina Solar (Changzhou) Science & Technology Co., Ltd.